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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,127	04/13/2004	Kevin T. O' Dougherty	N95.12-0017	3502
<div>7590      09/13/2007</div> <div>William F. Ryann ATMI, Inc. 7 Commerce Drive Danbury, CT 06810</div> <div>EXAMINER CARTAGENA, MELVIN A</div> <div>ART UNIT      PAPER NUMBER</div> <div>3754</div> <div>MAIL DATE      DELIVERY MODE</div> <div>09/13/2007      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 5, 12, 13, 21 and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,693,017 to Spears et al.

Spears shows a dispensing system for dispensing liquid as seen in Figs. 1 and 2, having an outer container 20, an inner container 22, a liquid 12 occupying a space inside the inner container, a connector attached to the inner and outer container including a prove 26 and passages for gas and liquid that communicate the interior of the inner container with the exterior of the outer container, a drain valve 36 connected between the inner container head space and a gas drain, a bubble detector 66.

The device of Spears performs the claimed method steps of containing a product in an inner container, evacuating the head space gas from the inner container, supplying pressure between the inner container and the outer container to force the liquid out from the inner container, as claimed in method claims 1, 2, 4 and 5.

With respect to the device being used in a manufacturing process, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,693,017 to Spears et al. in view of US 4,313,419 to Lyon et al.

Spears shows all claimed features as discussed above except for liquid sensor between the gas passage and the headspace gas. Lyon shows a gas-evacuating valve 6 controlled by controller 30 in response to signal from liquid sensors 7 and 8. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Spears to include a liquid sensor in the gas line to automatically evacuate any gas accumulated in the headspace and indicate when the container is full as taught by Lyon.

The device of the Spears-Lyon combination performs the method of sensing the head gas flow as claimed in claim 6.

5. Claims 11, 15, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,693,017 to Spears et al. in view of US 5,764,522 to Shalev.

Spears shows all claimed features as discussed above except for an empty detect system that includes weighing the content of the container. Shalev shows a system utilizing a feedback of load sensors 18 to determine the level condition of the product in the product container. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Spears to include a weighing system to monitor the level condition

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of the product in the container to automatically and accurately maintain a record of the product usage during operation of the device as taught by Shalev.

The Spears-Shalev combination performs the method weighing the fluid container while the liquid is used in a manufacturing process and determining when the container is empty as claimed in claim 11.

***Allowable Subject Matter***

6. Claims 24-31 are allowed.
7. Claims 7-10 and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 2, 4-6, 10, 12-14, 21 and 22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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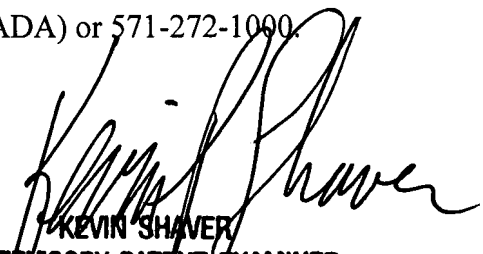
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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